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(Adhuc)

Application No. 05 713 999.0 - 1225	Ref. MMGD-216-PC/EP	Date 30.10.2009
Applicant Smiths Medical ASD, Inc.		

Communication pursuant to Article 94(3) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(2) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 126(2) and 131(2) and (4) EPC. One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (R. 50(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Art. 94(4) EPC).



Bykowski, Artur
Primary Examiner
For the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)

The examination is being carried out on the **following application documents**:

Description, Pages

1-14 as originally filed

Claims, Numbers

1-3 as originally filed

Drawings, Sheets

1/8-8/8 as originally filed

Summary

1. The application does not meet the requirements of Article 84 EPC, because claims 1 and 3 are not clear.
2. Furthermore, the above-mentioned lack of clarity notwithstanding, the subject-matter of claims 1-3 is not new in the sense of Article 54(1) and (2) EPC, and therefore the requirements of Article 52(1) EPC are not met.
3. The following document is referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US 2003/145053 A1 (BODIN WILLIAM KRESS ET AL) 31 July 2003 (2003-07-31)

Detailed Objections

4. With reference to par. 1 of this communication, the reasons for the objections of lack of clarity are as follows.

4.1 Claims 1 and 3 are not clearly defined in that the claimed subject-matter is ambiguous as to whether the medical device is a part of the claimed apparatus or not. The applicant is requested to clarify the issue.

5. With reference to par. 2 of this communication, the document D1 discloses (the references in parentheses applying to this document) a server (par. 4, first two lines; fig. 1) comprising:

- web browser process suitable for communication with a remote device (par. 6, last 3 lines; par. 42);
- a pump interface process suitable for communicating with a medical device (par. 4, last 3 lines; par. 5).

5.1 The subject-matter of claim 1 is therefore not new (Article 54(1) and (2) EPC).

6. With reference to par. 2 of this communication, the document D1 discloses (the references in parentheses applying to this document) a medical device (par. 5) comprising:

- memory and processor (implicit);
- said processor being programmed to incorporate the functionality of a web server for communicating with a remote client device (par. 40-42).

6.1 The subject-matter of claim 2 is therefore not new (Article 54(1) and (2) EPC).

7. With reference to par. 2 of this communication, the document D1 discloses (the references in parentheses applying to this document) a server (par. 4, first two lines; fig. 1) comprising:

- memory and processor (implicit);
- said processor being programmed to incorporate the functionality of an interface for communicating with a medical device (par. 4, last four lines; fig. 1).

7.1 The subject-matter of claim 3 is therefore not new (Article 54(1) and (2) EPC).

8. Additionally to the above objections, while filing a new set of claims, the applicant is invited to take into account also the following observations:

8.1 The features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 43(7) EPC). This applies to both the preamble and characterising portion (see the Guidelines, C-III, 4.19).

8.2 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC). To meet the requirements of Rule 42(1)(b) EPC, the document D1 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.

8.3 In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based. If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.